August 30, 2016

Mr. Glenn Blackmon
Washington State Energy Office
1011 Plum Street SE
P.O. Box 42525
Olympia, WA 98504-2525

Subject: Comments on the Second Draft of Proposed Rule Amendments to WAC 194-37-070

Dear Mr. Blackmon:

Tacoma Power, Seattle City Light and Snohomish PUD collectively appreciate the opportunity to comment on the proposed amendment to WAC 194-37-070 circulated by your office. After thorough review, we recommend three changes that we consider significant. We also suggest a number of language changes to improve regulatory clarity. For your convenience, attached are two versions of our recommended regulatory language. The first is "clean" in that it incorporates all of our recommendations. The second is includes all "track changes" to highlight the changes we propose.

The remainder of this letter will describe the rationale underlying our recommendations.

**Proposed Substantive Changes**

> *(3) Each utility must document that the methodologies and inputs used in the development of its ten-year potential and biennial target ~~and must document that its ten-year potential and biennial target~~ are consistent with the requirements of RCW 19.285.040(1).*
>
> We recommend striking the identified language for two reasons. First, it goes well beyond the statutory requirements of RCW 19.285.040, which only requires a qualifying utility to "identify its achievable cost-effective conservation potential" using methodologies "consistent with those used by the Pacific Northwest electric power and conservation planning council [sic]." Second, on a practical level, it is not clear to us how a utility could actually perform this documentation.

*(4) Each utility may use utility specific conservation measures, values, and assumptions within the methodologies specified in WAC 194-37-045 when identifying its achievable cost-effective conservation potential.*

We recommend adding this language to provide stakeholders clarity about the statutory distinction between the Council's methodology and utility specific inputs. The circumstances facing individual utilities can and do vary from those facing the entire region. The legislature explicitly recognized these differences when it amended RCW 19.285.040 in 2014. This addition simply reflects that change in the statute.

*(6)(d) **Economic achievable potential.** Establish the economic achievable potential, which is the conservation potential that is cost-effective, reliable, and feasible, by comparing the total resource cost of conservation measures to the cost of other resources available to meet the utility's portfolio needs. The utility may identify economic achievable potential by using one of the two methodologies in section (i) and (ii).*

*(i) **Integrated Portfolio Method.** As part of its integrated resource plan the utility can analyze the cost-effective potential of conservation resources over a range of potential future outcomes. A utility may perform this evaluation of multiple scenarios and resource strategies, including a range of conservation acquisition amounts. Economic achievable potential will be based on an identified resource plan that identifies both a least-cost objective and a least-risk objective.*

*(ii) **Total Resource Cost Test Method.** A utility can establish economic achievable potential as conservation measures that pass a total resource cost test, by having a benefit/cost ratio of one or greater.*

We recommend this revision/addition to reflect the Council's stochastic approach to conducting its regional portfolio assessment. This recommendation reinforces the statute's direction that utility analyses are to use "methodologies consistent with those used by the [Council]." However, we also strongly recommend retaining the current Total Resource Cost (TRC) test as an option for determining Economic achievable potential. The Council's stochastic approach is complicated and requires extensive computer analyses that may be beyond the capability of some qualifying utilities. The current TRC approach is a reasonable alternative. It has achieved the conservation savings objective of the statute since 2010 and the Council explicitly identified it as reasonable approach for utilities to follow in its 7th Regional Power Plan.

**Proposed Other Changes**

*(6)(d)(iii) Minimum requirements for both methods are identified in section (7)*

With the exception of items noted below, the changes recommended under (7) are intended to improve regulatory clarity and organization.

*(7)(a) The ~~Conduct~~ total incremental resource costs ~~analysis that assesses all costs~~ and benefits of conservation measures that accrue to the utility and its rate payers regardless of who pays the costs or receives the benefits;*

This recommendation is intended to clarify utility consistency with Council methodologies. When considering the benefits and costs of conservation, the Council focuses within its regional planning area. Likewise, utilities look within their service territory when assessing the merits of conservation.

*(7)(d) The value of capacity based on the utility's resource portfolio and the timing of the utility's capacity needs;*

This change, breaking out the capacity value analysis from the energy value analysis (the revised (7)(c)), reflects the fact that the value of capacity is assessed differently than energy.

*(7)(g) ~~Include the expected social cost~~ A range of carbon emissions costs ~~avoided~~;*

This change is to reflect the fact that several utilities include a cost for carbon in their assessment of regional power costs. The proposed language could result in a double counting of carbon costs.

*(7)(h) ~~Include a~~A risk mitigation ~~credit~~ factor to reflect the incremental change in utility ~~value of conservation in reducing~~ risks associated with implementing ~~avoided non-~~conservation resources;*

This change is to reflect the fact that conservation can have both reduce and increase utility risks. An example of an increase in risk would be a utility relying on a reduction in energy use or capacity savings from the conservation measure that does not materialize.

*(7)(i) ~~Include a~~All nonpower benefits and costs that a resource or measure may provide that can be quantified and monetized;*

This change is to reflect the fact that conservation can have both increase or decrease costs.

~~*(7)(xii) Include the cost of financing measures using the capital costs of the entity that is expected to pay for the measure;*~~

This language would be impossible for utilities to implement. Utilities create conservation programs that cover a wide range of potential recipient entities. Each potential recipient will have a unique cost of capital that is unknown to the utility. Moreover that cost of capital will vary significantly among entities.

Finally, we wish to thank you and other Commerce staff for the work put into this rulemaking. You face the difficult task of balancing many strongly held opinions regarding how to best implement the Energy Independence Act. We appreciated the open and inclusive process used to develop these rules. Please contact any of the undersigned if you have any specific questions about our comments.

Sincerely,

| | | |
|---|---|---|
| Stephen Bicker<br>Tacoma Power | Craig Smith<br>Seattle City Light | George Pohndorf<br>Snohomish County PUD |

attachments

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**FOR DISCUSSION PURPOSES -- Possible Changes to Existing Rule Language**

**WAC 194-37-070**

**Development of conservation potential and biennial conservation targets.**

(1) Ten-year potential. By January 1st of each even-numbered year, each utility shall identify its achievable cost-effective conservation potential for the upcoming ten years.

(2) Biennial target. By January 1st of each even-numbered year, each utility shall establish and make public a biennial conservation target. The utility's biennial target shall be no less than its pro rata share of the ten-year potential identified pursuant to subsection (1) of this section.

(3) Each utility must document that the methodologies and inputs used in the development of its ten-year potential and biennial target are consistent with the requirements of RCW 19.285.040(1).

(4) Each utility may use utility specific conservation measures, values, and assumptions within the methodologies specified in WAC 194-37-045 when identifying its achievable cost-effective conservation potential.

(5) Each utility must establish its ten-year potential and biennial target by action of the utility's governing board, after public notice and opportunity for public comment.

(6) The methodologies used by the NWPCC in its most recently published regional power plan are summarized in this subsection:

(a) **Technical potential.** Determine the amount of conservation that is technically feasible, considering measures and the number of these measures that could physically be installed or implemented, without regard to achievability or cost.

(b) **Achievable technical potential.** Determine the amount of the conservation technical potential that is available within the planning period, considering barriers to market penetration and the rate at which savings could be acquired;

(d) **Economic achievable potential.** Establish the economic achievable potential, which is the conservation potential that is cost-effective, reliable, and feasible, by comparing the total resource cost of conservation measures to the cost of other resources available to meet the utility's portfolio needs. The utility may identify economic achievable potential by using one of the two methodologies in section (i) and (ii).

(i) **Integrated Portfolio Method**. As part of its integrated resource plan the utility can analyze the cost-effective potential of conservation resources over a range of potential future outcomes. A utility may perform this evaluation of multiple scenarios and resource strategies, including a range of conservation acquisition amounts. Economic achievable potential will be based on identified a resource plan that identifies both a least-cost objective and a least-risk objective.

(ii) **Total Resource Cost Test Method**. A utility can establish economic achievable potential as conservation measures that pass a total resource cost test, by having a benefit/cost ratio of one or greater.

(iii) Minimum requirements for both methods are identified in section (7)

(7) Minimum analytical requirements to establish economic achievable potential. The methods in section (6) must perform a life-cycle analysis of measures or programs that, at a minimum, considers:

(a) The total incremental resource costs and benefits of conservation measures that the utility and its rate payers accrue;

(b) The incremental savings and incremental costs of measures and replacement measures where resources or measures have different measure lifetimes;

(c) The value of the energy saved based on the utility's resource portfolio and the timing of the savings. In performing this calculation, use time differentiated avoided costs to conduct the analysis that determines the financial value of energy saved through conservation;

(d) The value of capacity based on the utility's resource portfolio and the timing of the utility's capacity needs;

(e) The increase or decrease in annual or periodic operations and maintenance costs due to conservation measures;

(f) Deferred capacity expansion benefits for transmission and distribution systems;

(g) A range of carbon emissions costs;

(h) A risk mitigation factor to reflect the incremental change in utility risks associated with implementing conservation resources;

(i) All nonpower benefits and costs that a resource or measure may provide that can be quantified and monetized;

(j) Program administrative costs;

(k) Discount future costs and benefits at a discount rate equal to the discount rate used by the utility in evaluating non-conservation resources;

(l) Include a ten percent bonus for conservation measures as defined in 16 U.S.C. § 839a of the Pacific Northwest Electric Power Planning and Conservation Act;

**FOR DISCUSSION PURPOSES -- Possible Changes to Existing Rule Language**

**WAC 194-37-070**

**Development of conservation potential and biennial conservation targets.**

(1) Ten-year potential. By January 1st of each even-numbered year, each utility shall identify its achievable cost-effective conservation potential for the upcoming ten years.

(2) Biennial target. By January 1st of each even-numbered year, each utility shall establish and make public a biennial conservation target. The utility's biennial target shall be no less than its pro rata share of the ten-year potential identified pursuant to subsection (1) of this section.

(3) Each utility must document that the methodologies and inputs used in the development of its ten-year potential and biennial target ~~and must document that its ten-year potential and biennial target~~ are consistent with the requirements of RCW 19.285.040(1).

(4) Each utility may use utility specific conservation measures, values, and assumptions within the methodologies specified in WAC 194-37-045 when identifying its achievable cost-effective conservation potential.

(5) Each utility must establish its ten-year potential and biennial target by action of the utility's governing board, after public notice and opportunity for public comment.

(~~5~~6) The methodologies used by the NWPCC in its most recently published regional power plan are summarized in ~~(a) through (o) of~~ this subsection:

(a) **Technical potential.** Determine the amount of conservation that is technically feasible, considering measures and the number of these measures that could physically be installed or implemented, without regard to achievability or cost.

~~Analyze a broad range of energy efficiency measures considered technically feasible;~~

(~~l~~b) **Achievable technical potential.** Determine the amount of the conservation technical potential that is available within the planning period, considering barriers to market penetration and the rate at which savings could be acquired;~~Include estimates of the achievable conservation penetration rates for conservation measures;~~

(d) **Economic achievable potential.** Establish the economic achievable potential, which is the conservation potential that is cost-effective, reliable, and feasible, by comparing the total resource cost of conservation measures to the cost of other resources available to meet the utility's portfolio needs. The utility may identify economic achievable potential by using one of the two methodologies in section (i) and (ii).

(i) **Integrated Portfolio Method**. As part of its integrated resource plan the utility can analyze the cost-effective potential of conservation resources over a range of potential future outcomes. A utility may perform this evaluation of multiple scenarios and resource strategies, including a range of conservation acquisition amounts. Economic achievable potential will be based on identified a resource plan that identifies both a least-cost objective and a least-risk objective.

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(ii) **Total Resource Cost Test Method**. A utility can establish economic achievable potential as conservation measures that pass a total resource cost test, by having a benefit/cost ratio of one or greater.

(iii) Minimum requirements for both methods are identified in section (67)

(~~bc~~67) ~~Total resource cost.~~Minimum analytical requirements to establish economic achievable potential. The methods in section (5) must ~~P~~perform a life-cycle ~~cost~~ analysis of measures or programs that, at a minimum, considers~~identifies at least:to determine the net levelized cost:~~

(~~ei~~a) The ~~Conduct a~~ total incremental resource costs ~~analysis that assesses all costs~~ and ~~all~~ benefits of conservation measures that the utility and its rate payers accrue~~regardless of who pays the costs or receives the benefits. The NWPCC identifies conservation measures that pass the total resource cost test as economically achievable~~;

(~~ii~~b) ~~, Includeing t~~The incremental savings and incremental costs of measures and replacement measures where resources or measures have different measure lifetimes;

(~~diii~~c) ~~Calculate T~~the value of the energy ~~and capacity~~ saved based on the utility's resource portfolio and the timing of the ~~when it is~~ saved~~ings~~. In performing this calculation, use time differentiated avoided costs to conduct the analysis that determines the financial value of energy ~~and capacity~~ saved through conservation;

(d) The value of capacity based on the utility's resource portfolio and the timing of the utility's capacity needs;

(~~give~~) ~~Include T~~the increase or decrease in annual or periodic operations and maintenance costs due to conservation measures;

~~(cv) Include Set Aavoided energy costs equal to a forecast of regional market prices or based on the utility's portfolio needs including deferred generation benefits consistent with the contribution to system peak capacity of the conservation measures, which represents the cost of the next increment of available and reliable power supply available to the utility for the life of the energy efficiency measures to which it is compared;~~

~~(vi) Avoided capacity costs equal to a forecast of regional market prices or based on the utility's portfolio needs;~~

~~(~~hviif) ~~Include D~~deferred capacity expansion benefits for transmission and distribution systems ~~in its cost-effectiveness analysis~~;

~~(vii) Include deferred generation benefits consistent with the contribution to system peak capacity of the conservation measures;~~

(~~viiig~~) ~~Include the expected social cost~~A range of carbon emissions costs ~~avoided~~;

(~~ix~~h) ~~Include A~~a risk mitigation ~~credit~~factor to reflect the incremental change in utility ~~value of conservation in reducing~~ risks associated with implementing ~~avoided non-~~conservation resources;

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(j) ~~Include a~~An ~~estimate of p~~Program administrative costs;

~~(xii) Include Tthe cost of financing measures using the capital costs of the entity that is expected to pay for the measure;~~

(k) Discount future costs and benefits at a discount rate equal to the discount rate used by the utility in evaluating non-conservation resources ~~based on a weighted, after-tax, cost of capital for utilities and their customers for the measure lifetime~~;

(~~m~~xiviii) Include a ten percent bonus for conservation measures as defined in 16 U.S.C. § 839a of the Pacific Northwest Electric Power Planning and Conservation Act;

~~(d) **Economic achievable potential.** Establish the economic achievable potential, which is the conservation potential that is cost-effective, reliable, and feasible, by comparing the total resource cost of conservation measures to the cost of other resources available to meet expected demand for electricity and capacity.~~

~~(in) Analyze the cost-effective potential of conservation resources over a range of potential future outcomes. Analyze the results of multiple scenarios. This includes testing scenarios that accelerate the rate of conservation acquisition in the earlier years; and Analyze potential resource strategies, including a range of conservation acquisition amounts, based on both a least-cost objective and a least-risk objective. A utility may perform this evaluation of multiple scenarios as part of its integrated resource planning process;~~

~~(fii) Identify conservation measures that pass the total resource cost test, by having a benefit/cost ratio of one or greater as economically achievable;~~

~~(oiii) Analyze the costs of estimated future environmental externalities in the multiple scenarios that estimate costs and risks.~~